

## CHAPTER 17 - GENERAL PROVISIONS

- 17.010 Authorization of Similar Uses. The Director may rule that a use not specifically named as a permitted or conditional use shall be included, if the use is of the same general type and is similar to the permitted or conditional use.  
~~Authorization of similar uses shall be processed under the Type I procedure.~~
- 17.020 Interpretation. It shall be the responsibility of the Director to interpret and apply provisions of this code. The City Council shall have the final authority to interpret all terms, provisions and requirements of this Code. Other persons requesting such an interpretation in writing shall do so in accordance with Section 6.400 (Director's Interpretation).
- 17.030 Maintenance of Code Requirements. No lot area, yard, or other open space; required off-street parking or loading area; or other site condition existing on or after the effective date of this code, shall be reduced in area, dimension, or size below the minimum required by this code; nor shall any site condition which is required by this code for one development be used to meet a requirement for any other development except as authorized.
- 17.040 Effect on Other Public and Private Regulations and Restrictions. It is not the intent of this Code to interfere with other laws or Ordinances relating to the use of structures, vehicles or land, or, relating to the construction or alteration of any buildings or improvements. It is not the intent of this Ordinance to interfere with any easement, deed restriction, covenant or other legally enforceable restriction imposed on the use or development of land more restrictive than the provisions of this Ordinance.
- 17.050 Bond or Cash Deposit. Before issuing or renewing a development permit, when the applicant has an obligation to construct or improve public facilities to serve the development or to reclaim land such as that due to surface mining operations, the obligation shall either be fulfilled prior to the issuance of the development permit or the applicant shall be required to file with the City Recorder an acknowledgment of the obligation. The acknowledgment shall contain the time within which it is to be met and a surety bond, cash, or negotiable security deposit sufficient to cover the cost of the work as estimated by the Director for the year fulfillment of the obligation is anticipated. The bond shall be conditioned upon the permittee carrying out the obligation and fulfilling the other requirements of this code that bear on the approval of the development. The deposit or bond shall be forfeited to the City if the permittee does not fulfill the requirements. The bond or deposit shall remain in the custody of the City until the obligation is completed or the bond or deposit is forfeited, or shall be placed in an escrow account subject to City control.

**17.060 Noncompliance with Provisions under Obligation.**

- A. If the Director finds that a permittee is not fulfilling an obligation, the Director shall, in written notice to the permittee and the permittee's surety, specify the details of noncompliance. Unless the Director allows more time for compliance because of circumstances beyond the permittee's control, within 30 days after receiving the notice, the permittee or the permittee's surety shall commence the compliance and proceed diligently to complete fulfillment of the obligation.
- B. If the permittee or the permittee's surety does not commence the compliance within the 30 days or the additional time allowed by the Director, has so commenced but fails diligently to complete the compliance, or the compliance is otherwise not completed within the time specified in granting the development permit, the City may take the following action:
  - 1. Enter upon the site of the development and carry out the obligation in accordance with the provisions agreed upon under the acknowledgment.
  - 2. Notify the permittee and the permittee's surety of the permittee's failure to perform as required by this code.
  - 3. Demand payment from the permittee for the unfulfilled obligation.
  - 4. If the security for the obligation is a bond, notify the surety that has furnished the bond that reimbursement for the expense for fulfillment of the obligation is due and payable to the City or, if the security is a deposit of cash or other assets, appropriate as much of the deposit as is necessary to recoup the expense.
- C. If a bond or other security required by section 17.050, Bond or Cash Deposit, of this chapter is not sufficient to compensate the City for expenses necessary to fulfill the obligation, the amount due to the City for the obligation is a lien in favor of the City and upon the entire contiguous real property of the owner of the land subject to the obligation.
- D. The lien attaches upon the filing with the City Recorder of notice of the claim for the amount due for the fulfillment of the obligation. The notice shall demand the amount due, allege the insufficiency of the bond or other security to compensate the City fully for the expense of the fulfillment of the obligation, and allege the permittee's failure to do the required obligation.

- E. The lien may be foreclosed in the manner prescribed by law for foreclosing other liens on real property.

17.070 Adjusting Bond or Deposit for Future Obligation.

- A. In the case of an obligation to perform at a future date, such as a surface mining reclamation obligation, the amount of bond or deposit shall be adjusted annually to reflect changing estimates of the costs of fulfilling the obligation.
- B. Where the City carries out the obligation because the permittee has failed to do so under section 17.060, Noncompliance with Provisions under Obligation, of this chapter, the City may expend funds only to the extent necessary to complete the obligation. If the amount specified in the notice to the surety is not paid within 30 days after that notice is given the surety, the City shall institute proceedings to recover the amount.
- C. A lien created under this section is prior to all other liens and encumbrances, except that the lien has equal priority with tax liens.

17.080 Fees and Deposits. Fees and deposits shall be set and adjusted by City Council resolution.

17.090 Conflicting Regulations. Where the conditions imposed by a provision of this code are less restrictive than comparable conditions imposed by any other provisions of this code or any other ordinance, the provisions which are more restrictive shall govern.

17.100 Severability. The provisions of this code are severable. If any section, sentence, clause, or phrase of this code is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this code.

17.110 Violations. Violations of the Development Code are considered infractions and subject to the civil infraction provisions of the City. In addition, violations hereby declared to be nuisances may be abated under applicable provisions of Chapter 8.28 of the Troutdale Municipal Code, or restrained or enjoined by a court of competent jurisdiction.

~~17.110 Abatement and Penalty.~~

- ~~A. A person violating a provision of this code shall be subject to a fine of not less than \$500 nor more than \$1,000. A violation shall be considered a separate violation for each day it continues.~~
- ~~B. A development in violation of this code, or the use of a development in violation of this code, shall constitute a nuisance. The City may, as an~~

~~alternative to other remedies that are legally available for enforcing this code, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, enjoin, abate, or remove the development or use in violation. [Adopted by Ord. 550, ef. 9/25/90]~~

17.120 Repeal. Ordinance No. ~~271-O~~ [INSERT current Code Ord #] is repealed.